

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. This Amendment should be entered under Rule 116 because it raises no new issues and places this application in condition for allowance.

Claim Status

New independent claim 17 has been added. Claims 8-17 therefore are pending in the application.

New claim 17 finds full support in the originally filed specification and drawings. This claim distinguishes over the cited art in at least the shell is required to be inboard of the cooling arrangement as different from the arrangement found in Watanabe et al. wherein layers 5, 13 are clearly illustrated as being outboard of the cooling pipes 6.

Rejections under 35 USC § 102

The rejection of claims 8, 9 and 14 under 35 USC §102(b) as being anticipated by Watanabe et al. (US 3,963,950), is respectfully traversed.

Applicant disagrees with the interpretation of Watanabe by the Examiner. That is to say, in the rejection it is merely assumed that the resin layers 5 and 13 are a fluid tight shell as claimed. However, in Watanabe, there is nothing to suggest that layers 5 and 13 are in fact fluid tight. They may be intermittent or perforated for example, thus in the absence of any disclosure that these layers actually produce a fluid tight barrier as purported, the rejection cannot be deemed tenable without a showing that fluid tight characteristics actually result from the structure disclosed in this reference.

Rejections under 35 USC § 103

The rejection of claims 10-13 and 15-16 under 35 USC §103(a) as being unpatentable over Watanabe et al. in view of Kikuchi et al., is respectfully traversed.

As the Examiner is aware under the §103 statute, in order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be motivated to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered as statutorily required.

In this case the rejection is based on the §102 assumption that what is shown is a fluid tight shell. As will be noted from the position advanced above, the structure and disclosure of the Watanbe et al. reference is not such as to lead the reader to this conclusion and thus the citation of Kikuchi et al. to overcome admitted shortcomings in the Watanbe et al. arrangement does nothing to overcome the impropriety of basing a rejection under §103 on the presumption based on the guess-work based interpretation of what is disclosed in Watanabe et al.

The secondary reference to Kikuchi et al which is combined with the primary reference to Watanabe, indicates that Kikuchi et al. cannot be relied upon to teach which is purported in the obviousness rejection under § 103. Elements 26 and 27 which are cited by the examiner are projections/stoppers and have nothing to do with the purported first and second stacks of laminations and have nothing to do with cooling efficiency. Therefore claim 10 is asserted to be non-obvious over the structures which are disclosed in the two references of record.

It must be appreciated that the hypothetical person would clearly recognize the cooling coil to be self contained and that no further fluid tight shell would be required. Accordingly, the obviousness rejection should be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the application is in condition for allowance and a Notice to that effect is earnestly solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is

hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

A handwritten signature in black ink, reading "Kenneth M. Berner". The signature is written in a cursive, flowing style.

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